

Equitable Distribution

G.S. 50-20, 20.1, 21

- ⌘ Marriage is an Economic Partnership
- ⌘ Property of Marriage Should Be Divided Equitably
- ⌘ Title/Ownership Not Controlling
- ⌘ Separate Property Should Be Returned to Owner

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Tasks of Judge

- ⌘ Identify and Classify All Property Owned At Separation
- ⌘ Classify All Debt and Divisible Property
- ⌘ Value All Property and Debt
- ⌘ Distribute Marital/Divisible Property and Debt
- ⌘ Return Separate Property to Owner

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Marital Property

G.S. 50-20(b)(1)

- ⌘ All Real and Personal Property
- ⌘ Acquired By Either or Both Spouses
- ⌘ After Marriage
- ⌘ Before the Date of Separation
- ⌘ Owned on the Date of Separation
- ⌘ Retirement and Deferred Compensation Rights Earned During Marriage

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**Separate Property**  
G.S. 50-20(b)(2)

- ⌘ Acquired before Marriage
- ⌘ Acquired by "a" spouse by gift or bequest during marriage
- ⌘ Acquired in exchange for separate property during marriage
- ⌘ Passive increase in value of or income from separate property during marriage
- ⌘ Nontransferable Licenses

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**Burden of Proof**

- ⌘ Prove Marital By Greater Weight of Evidence:
  - Acquired by either or both
  - During marriage and before separation
  - Owned on date of separation
- ⌘ Prove Separate By Greater Weight
- ⌘ If both meet burden: separate
- ⌘ If neither meet burden: no ED

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**Mixed Assets**

- ⌘ Single asset can have both marital and separate components
  - By acquisition, or
  - By appreciation of separate property
- ⌘ Each estate is entitled to its investment plus a reasonable return on its investment

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## Marital Debt

- ⌘ Debt Incurred During Marriage
- ⌘ Before the Date of Separation
- ⌘ By Either or Both Spouses
- ⌘ For the Joint Benefit of the Parties
- ⌘ Must Find Value on Date of Separation

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## Divisible Property G.S. 50-20(b)(4)

- ⌘ Postseparation
  - Appreciation/depreciation of marital/divisible property not caused by "effort" of a spouse
  - Passive income from marital property
  - Property earned as the result of marital efforts (commissions, bonuses, contract rights)
  - Increases [and decreases] in marital debt; financing charges and interest on marital debt

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## Valuation

- ⌘ Every asset or debt identified as marital must have a date of separation value
  - Will you ask for it?

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## Distribution

⌘ The place to do "equity"

☒ Consider distribution factors

⌘ Equal presumed equitable

☒ Only need one factor to award unequal

⌘ In-kind division presumed equitable

☒ Distributive award allowed when in-kind is not practical

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